

§ 34.86

subpart C of this part, then the bank need not obtain another appraisal or evaluation when it acquires ownership of the property.

(c) *Sales of OREO.* A national bank need not obtain a new appraisal or evaluation when selling OREO if the sale is consummated based on a valid appraisal or an appropriate evaluation.

§ 34.86 Additional expenditures and notification.

(a) *Additional expenditures on OREO.* For OREO that is a development or improvement project, a national bank may make advances to complete the project if the advances:

(1) Are reasonably calculated to reduce any shortfall between the parcel's market value and the bank's recorded investment amount;

(2) Are not made for the purpose of speculation in real estate; and

(3) Are consistent with safe and sound banking practices.

(b) *Notification procedures.* (1) A national bank shall notify the appropriate supervisory office at least 30 days before implementing a development or improvement plan for OREO when the sum of the plan's estimated cost and the bank's current recorded investment amount (including any unpaid prior liens on the property) exceeds 10 percent of the bank's capital and surplus. A national bank need notify the OCC under this paragraph (b)(1) only once. A national bank need not notify the OCC that the bank intends to re-fit an existing building for new tenants or to make normal repairs and incur maintenance costs to protect the value of the collateral.

(2) The required notification must demonstrate that the additional expenditure is consistent with the conditions and limitations in paragraph (a) of this section.

(3) Unless informed otherwise, the bank may implement the proposed plan on the thirty-first day (or sooner, if notified by the OCC) following receipt by the OCC of the bank's notification, subject to any conditions imposed by the OCC.

§ 34.87 Accounting treatment.

A national bank shall account for OREO, and sales of OREO, in accord-

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ance with the Instructions for the preparation of the Consolidated Reports of Condition and Income.

PART 35—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

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AUTHORITY: 12 U.S.C. 1831y.

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§ 35.1 Purpose and scope of this part.

(a) *General.* This part implements section 711 of the Gramm-Leach-Bliley Act (12 U.S.C. 1831y). That section requires any nongovernmental entity or person, insured depository institution, or affiliate of an insured depository institution that enters into a covered agreement to—

(1) Make the covered agreement available to the public and the appropriate Federal banking agency; and

(2) File an annual report with the appropriate Federal banking agency concerning the covered agreement.

(b) *Scope of this part.* The provisions of this part apply to national banks, subsidiaries of national banks, and nongovernmental entities or persons that enter into covered agreements with a national bank or a subsidiary of a national bank.

(c) *Relation to Community Reinvestment Act.* This part does not affect in any way the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*), part 25 of this chapter (Community Reinvestment Act and Interstate Deposit Production Regulations) or the OCC's interpretations or administration of that Act or regulation.

(d) *Examples.* (1) The examples in this part are not exclusive. Compliance

with an example, to the extent applicable, constitutes compliance with this part.

(2) Examples in a paragraph illustrate only the issue described in the paragraph and do not illustrate any other issues that may arise in this part.

§ 35.2 Definition of covered agreement.

(a) *General definition of covered agreement.* A covered agreement is any contract, arrangement, or understanding that meets all of the following criteria—

(1) The agreement is in writing.

(2) The parties to the agreement include—

(i) One or more insured depository institutions or affiliates of an insured depository institution; and

(ii) One or more nongovernmental entities or persons (referred to hereafter as NGEPS).

(3) The agreement provides for the insured depository institution or any affiliate to—

(i) Provide to one or more individuals or entities (whether or not parties to the agreement) cash payments, grants, or other consideration (except loans) that have an aggregate value of more than \$10,000 in any calendar year; or

(ii) Make to one or more individuals or entities (whether or not parties to the agreement) loans that have an aggregate principal amount of more than \$50,000 in any calendar year.

(4) The agreement is made pursuant to, or in connection with, the fulfillment of the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*) (CRA), as defined in § 35.4.

(5) The agreement is with a NGEPS that has had a CRA communication as described in § 35.3 prior to entering into the agreement.

(b) *Examples concerning written arrangements or understandings—*(1) *Example 1.* A NGEPS meets with an insured depository institution and states that the institution needs to make more community development investments in the NGEPS's community. The NGEPS and insured depository institution do not reach an agreement concerning the community development investments the institution should make in the community, and the parties do not

reach any mutual arrangement or understanding. Two weeks later, the institution unilaterally issues a press release announcing that it has established a general goal of making \$100 million of community development grants in low- and moderate-income neighborhoods served by the insured depository institution over the next 5 years. The NGEPS is not identified in the press release. The press release is not a written arrangement or understanding.

(2) *Example 2.* A NGEPS meets with an insured depository institution and states that the institution needs to offer new loan programs in the NGEPS's community. The NGEPS and the insured depository institution reach a mutual arrangement or understanding that the institution will provide additional loans in the NGEPS's community. The institution tells the NGEPS that it will issue a press release announcing the program. Later, the insured depository institution issues a press release announcing the loan program. The press release incorporates the key terms of the understanding reached between the NGEPS and the insured depository institution. The written press release reflects the mutual arrangement or understanding of the NGEPS and the insured depository institution and is, therefore, a written arrangement or understanding.

(3) *Example 3.* A NGEPS sends a letter to an insured depository institution requesting that the institution provide a \$15,000 grant to the NGEPS. The insured depository institution responds in writing and agrees to provide the grant in connection with its annual grant program. The exchange of letters constitutes a written arrangement or understanding.

(c) *Loan agreements that are not covered agreements.* A covered agreement does not include—

(1) Any individual loan that is secured by real estate; or

(2) Any specific contract or commitment for a loan or extension of credit to an individual, business, farm, or other entity, or group of such individuals or entities, if—

(i) The funds are loaned at rates that are not substantially below market rates; and